



SENT TO COUNCIL: 04-27-04
ITEM:

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

SUBJECT: SEE BELOW

DATE: 04-07-04

Approved

Date

Council District: Citywide

**SUBJECT: REPORT ON THE RULE 20A AND RULE 20B (IN-LIEU FEE)
UNDERGROUND UTILITY PROGRAM AND 2003/04-2008/09 WORKPLAN**

RECOMMENDATION

That the City Council approve this report, the proposed 2003/04-2008/09 Workplan for the Rule 20A and Rule 20B(In-Lieu Fee) Underground Utility Program, and the proposed Rule 20B(In-Lieu Fee) Undergrounding Masterplan.
CEQA: Not a project.

BACKGROUND

The Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Programs are currently administered by the Department of Public Works in accordance with the 2002/03-2007/08 Workplan submitted to City Council on March 5, 2003.

Along with this report are the following attachments:

- Status of the 2002/03-2007/08 Rule 20A & B (In-Lieu Fee) Workplan (Attachment A)
- 2003/04-2008/09 Rule 20A & 20B (In-Lieu Fee) Workplan (Attachment B-1)
- 2003/04-2008/09 Rule 20A & 20B (In-Lieu Fee) Workplan By Council District (Attachment B-2)
- Summary of Changes since the Last Report (Attachment C)
- Areas Identified for Consideration as Future Rule 20A Underground Utility Projects (Attachment D)
- In-Lieu Fee Undergrounding Master Plan (Attachment E)
- Criteria for Evaluating Rule 20A & 20B (In-Lieu Fee) Underground Utility Projects (Attachment F).

The Workplan and Master Plan will implement the guidelines necessary for Public Works staff to coordinate the establishment, design, and construction of overhead-to-underground utility conversion projects.

RULE 20A PROGRAM – In 1968, the California Public Utilities Commission (CPUC) and Utility Companies created a program to underground utilities across the State. Under Rule 20A, Pacific Gas and Electric Company (“PG&E”) allocates funds, on a calendar year basis, to replace existing overhead electrical facilities with underground electrical facilities within the communities it serves. PG&E considers Rule 20A allocations as a tool to allow Cities and Counties to plan undergrounding projects. These allocations accumulate until they are used. PG&E uses its own funds to design and construct Rule 20A projects, and once the projects are complete, the cost is recovered through utility rate increases.

The 2004 calendar year allocation of PG&E funds for the City of San José is \$3,590,155. Similar CPUC rules, tariffs and legislation require SBC and Comcast to budget funds for the conversion of their own facilities within the districts legislated for Rule 20A funding.

RULE 20B (IN-LIEU FEE) PROGRAM – Undergrounding may be accomplished through the City's establishment of large aggregated projects rather than requiring developers to perform the undergrounding on a piecemeal basis. This results in more efficient use of engineering staff, construction crews, and utility company resources resulting in lower unit costs for design and construction.

In 1989, the City of San José established the In-Lieu Utility Undergrounding Fee Program to meet the need to implement an equitable and expeditious process of requiring the undergrounding of existing overhead utilities along the street frontage of parcels that private developers are improving.

The City ordinance requires that developers pay a fee per frontage foot in-lieu of performing the overhead-to-underground conversion along the street frontage where their development is occurring. Only projects that develop adjacent to designated streets as defined in the Municipal Code are subject to the undergrounding in-lieu fee conditions.

The current in-lieu fee for utility undergrounding is \$224 per linear foot. Fees are collected in areas with future undergrounding potential. In-Lieu fees are programmed to be expended in these areas as shown in the attached In-Lieu Fee Undergrounding Master Plan, Attachment E. As long as these fees are committed to projects in the approved Master Plan they are considered non-refundable.

UNDERGROUND UTILITY PROGRAM ACTIVITY - Since 1968, the City of San José has legislated 125 Underground Utility Districts, of which:

- 118 projects have been completed.
- 2 projects are under construction.
- 5 projects are being designed.

The current status of the Rule 20A and Rule 20B (In-Lieu Fee) programs and implementation of the current workplan is presented in Attachment A.

U ANALYSIS

2003/04-2008/09 WORKPLAN

The Workplan is presented on a fiscal year basis, indicating program expenditures, preliminary project cost estimates, Rule 20A allocations and In-Lieu Fee Fund balances. The proposed projects are listed in sequence of the target dates for legislation of underground utility districts and proposed construction period. Projects in both programs have been reprioritized and/or rescheduled since the last report and workplan in accordance with the approved criteria and available utility company resources. A Summary of Changes since the last report is presented in Attachment C.

A listing of potential Rule 20A project areas is identified in Attachment D. The In-Lieu Fee Undergrounding Master Plan, Attachment E, includes project candidates programmed for future construction and are sorted sequentially in the Workplan per the council district and percentage of In-Lieu Fees paid.

A summary of the Criteria for Evaluating Underground Utility Projects is presented in Attachment F. These criteria provide a rational process for the selection of projects presented in the proposed workplan.

There is a current balance of nearly \$25 million in accumulated Rule 20A allocations for the City of San José, because PG&E has not been able to assign the necessary resources to effectively spend the City's allocation. The proposed workplan, as with previous workplans, is designed to utilize the unspent Rule 20A allocation as well as future allocations in an effort to maximize the amount of undergrounding that can take place. However, as in past years, it is doubtful if PG&E and other utility companies have the resources to implement the Workplan in full.

Due to PG&E's bankruptcy and other utility company resource issues, projects in the proposed workplan were reprioritized and/or rescheduled to maintain an undergrounding schedule of high priority projects such as the Guadalupe Gardens Project and Redevelopment Agency-funded streetscape projects near the New City Hall. Staff has met with PG&E senior management to express the City's desire for a more active construction schedule by PG&E for the Rule 20A Program. Staff will continue to monitor utility company resources and schedules and meet with them regularly to collectively update this workplan. Staff is taking a more active role in lead design and construction management of the Rule 20B undergrounding projects so as to minimize delays due to utility company resource issues.

COORDINATION

This and the report and the workplan have been coordinated with PG&E, SBC, Comcast, San José Redevelopment Agency, the Department of Transportation, the City Attorney's Office, Planning, Building and Code Enforcement Department and the City Manager's Budget Office.

COST IMPLICATIONS

RULE 20A PROGRAM - The cost of the overhead-to-underground conversion of PG&E facilities in the public right-of-way within underground utility districts is funded through the PG&E Rule 20A allocation to the City. The cost includes up to \$1,500 per service entrance for private service panel conversions and the total cost for conversion work varies between projects. Other utility companies underground their facilities at their cost.

The administration of Rule 20A program has historically been funded through the Operating Budget with General Funds. However, due to the lean budget forecast in recent years, staff is using in-lieu fee funds in this fiscal year (FY 03-04) and recommends continuous use of In-Lieu Fee Funds, approximately \$210,000 per year, to support the administration of the Rule 20A program. Staff believes it is appropriate to use in-lieu fee funds for administration of the Rule 20A program because in most, if not all, instances, projects virtually overlap within the two programs and in-lieu fees are collected within Rule 20A areas. Also, not all the potential Rule 20B projects in the masterplan that are within Rule 20A project areas have completely developed, so they will be required to contribute in-lieu funds when they develop and reimburse for the undergrounding costs. Administration includes the legislation of utility underground districts, hosting community meetings, reviewing and coordinating during design and construction of the project, and construction inspection.

Additionally, the City is responsible for the conversion of its facilities within the Rule 20A underground utility districts, including streetlights, traffic signals, fire stations, libraries, and other city facilities. Historically, the Traffic Capital Improvement Program had provided funding in the amount of \$250,000 per year for the conversion of City facilities. Due to the severe reduction in revenues, however, the Traffic CIP will not be able to provide funding for the majority of the projects. This could limit our ability to do Rule 20A projects.

RULE 20B (IN-LIEU FEE) PROGRAM – The cost for undergrounding of utilities is funded through the Underground Utility Fund. In addition, staff estimates a yearly funding need of approximately \$15,000 for private service conversions or \$1,500 per service entrance. This funding has been approved in the FY 2003-2004 Operating Budget.

HONORABLE MAYOR AND CITY COUNCIL

04-07-04

Subject: Report on the Rule 20A and 20B Underground Utility Program and 2003/04-2008/09 Workplan

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BUDGET REFERENCE

Fund #	Appn #	Appn. Name	RC #	Total Appn.	Amt. for Contract	2003-2004 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
416	4654	Underground Utility Program	103083	\$1,953,000	N/A	Page 100	Amended 02/17/2004, Ord. No. 27074
416	5147	Underground Utility Admin.	086573	\$78,000	N/A	Page 105	
416	4786	Underground Utility Admin. (20A)	128089	\$169,000	N/A	Page 106	
		Total		2,200,000			

CEQA

Not a project.

KATY ALLEN

Director, Public Works Department

PLM:CM:SK:df

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Attachments A-F